IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SEVENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 31402 of 1998

Between:

M/s. Singareni Colliereies Ltd.,

Srirampoor (Project) Area, Adilabad Dist.,

Rep.by its General Manager Sri. Sukhlal.

....PETITIONER

AND

1. The Commissioner for Workmen's Compensation,

Warangal.

2. Smt. Gangamma, W/o. Seepathi Rajayya,

Chintagudem (V), Luxettipet, Adilabad Dist. **.....RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ, order or direction more in the nature of Writ of Mandamus, declaring the action of the first respondent in demanding to pay the total Rs.1,97,060/- by notice bearing No.D1/1133/98, dt.2-9-98, is arbitrary, illegal, unjust, with out jurisdiction and contrary to the provisions of Workmen's compensation Act, 1923 and consequently set aside the same.

Counsel for the Petitioner: MR.J.PARTHASARATHY

Counsel for the Respondent No.2: MR.K.VASUDEVA REDDY

The Court made the following :

ORDER:

The only point that falls for consideration in this Writ Petition is whether the Workmen's Compensation(Amendment) Act, 1995 (Act 30 of 1995) is applicable in case of an accident which occurred prior to 15-09-1995, but the resultant death of the victim occurred after the amendment came into force.

The admitted facts of the case are that on 03-01-1995, the workman met with an accident and the workman compensation case was filed before the authority claiming the compensation. The workman was undergoing treatment at various hospitals for the ailments caused due to the accident. While so, he expired on 15-01-1998 after a prolonged treatment of about three years. In the meanwhile, the original authority passed an award on 26-03-1998 granting the compensation of Rs.81,640/-, but the law as on the date of the death of the workman i.e. 15-01-1998 was not taken into consideration. Under those circumstances, notice dated 02-09-1998, was issued to the petitioner management asking them to fix the compensation at Rs.1,97,060-00ps and directed the management to deposit the balance amount of Rs.1,25,712/- within 15 days from the date of receipt of the notice. Aggrieved by the said notice, the present writ petition is filed.

2. According to the petitioner, the amended Act 30 of 1995 has come into force with effect from 15-09-1995, and admittedly the accident occurred on 03-01-1995 and therefore, there were no circumstances warranting invocation of the amended provisions of law and fix the compensation for the death of the workman. The compensation was rightly fixed at Rs.81,540/- as per the unamended provisions since the accident occurred on 30-01-1995. Therefore, the issuance of a fresh notice fixing the compensation at Rs.1,97,060-00ps under the amended Act for the death of the workman is not permissible. In this regard, the learned Counsel for the petitioner has drawn the attention of the Court to the judgment of the Kerala High Court in *"United India Insurance Co. Ltd. Vs. Alavi*" wherein the accident occurred prior to 15.09.1995, and the compensation was sought to be fixed on the basis of the amended law under the Act 30 of 1995 which came into force with effect from 15-9-1995. Under those circumstances, the Kerala High Court held that the amended provisions have no application, and they cannot be applied retrospectively for the claims arising from the accidents, which occurred prior to 15.09.1995.

3. In the instant case, the situation is altogether different. Admittedly, the accident

occurred on 30-01-1995 and the workman was under continuous treatment for three long years and after suffering for a long time, he breathed last on 15.01.1998. Under those circumstances, the authority applied the amended provisions of law i.e. Section 4(1)(a) of the Amended Act by treating the case as one of death that occurred after the amendment though the accident occurred prior to the amendment and fixed the compensation. I find no reason to interfere with such a course of action adopted by the authority under the Act. The accident occurred on 30-01-1995 which resulted in the death of the workman after the amendment came into force, i.e. on 15-01-1998. The authority, therefore, treated the resultant death from the accident as death after the amendment and applied the relevant provisions in fixing the compensation. The same cannot be faulted with. The authority has rightly held that the resultant death being after the amendment the claimant is entitled to claim under the amended law.

4. There is no challenge made to the calculations arrived at by the authority in fixing the compensation for the purpose of resultant death arising out of the accident.

5. The Writ Petition is devoid of merits and liable to be dismissed. Accordingly, the writ petition is dismissed.

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27-07-2004.

To

1. The Commissioner for Workmen’s Compensation,

Warangal.

2. Two CD copies.

Rns/Vs.